a private, public, or municipal corporation.

[45 FR 9539, Feb. 12, 1980. Redesignated at 48 FR 1182, Jan. 11, 1983, as amended at 61 FR 3804, Feb. 2, 1996]

Subpart B—Bidding Systems

§ 260.101 Purpose and scope.

(a) This subpart establishes the several bidding systems that may be utilized in connection with the offering and sale of Federal leases for the exploration, development and production of oil and gas resources located on the OCS.

(b) Only bidding systems established by his subpart shall be utilized in OCS lease sales.

§ 260.102 Definitions.

For purposes of this subpart B—

Eligible lease means a lease that results from a sale held after November 28, 1995; is located in the Gulf of Mexico in water depths 200 meters or deeper; lies wholly west of 87 degrees, 30 minutes West longitude; and is offered subject to a royalty-suspension volume authorized by statute.

Field means an area consisting of a single reservoir or multiple reservoirs all grouped on, or related to, the same general geological structural feature and/or stratigraphic trapping condition. Two or more reservoirs may be in a field, separated vertically by intervening impervious strata, or laterally by local geologic barriers, or by both.

Highest responsible qualified bidder means a person who has met the appropriate requirements of 30 CFR part 256, subpart G and has submitted a bid higher than any other bids by qualified bidders on the same tract.

Highest royalty rate means the highest per centum rate payable to the United States, as specified in the lease, in amount or value of the production saved, removed or sold.

Lowest royalty rate means the lowest per centum rate payable to the United States, as specified in the lease, in amount or value of the production saved, removed or sold.

OCS lease sale means the DOI proceeding by which leases for certain OCS tracts are offered for sale by competitive bidding and during which bids are received, announced and recorded.

Production period means the period during which the amount of oil and gas produced from a tract, or, if the tract is unitized, the amount of oil and gas as allocated under a unitization formula, will be measured for purposes of determining the amount of royalty payable to the United States.

Qualified bidder means a person, who has met the appropriate requirements of 30 CFR part 256, subpart G.

Tract means a designation assigned solely for administrative purposes to a block or combination of blocks that are identified by a leasing map or an official protraction diagram prepared by DOI.

Value of production means the value of all oil and gas production saved, removed or sold from a tract, or, if the tract is unitized, the value of all oil and gas production saved, removed or sold and credited to the tract under a unitization formula, during a production period, which value is determined in accordance with § 260.110(b).

[45 FR 9539, Feb. 12, 1980. Redesignated at 48 FR 1182, Jan. 11, 1983, as amended at 61 FR 12027, Mar. 25, 1996; 63 FR 2629, Jan. 16, 1998]

§ 260.110 Bidding systems.

(a) A single bidding system selected from those listed in this paragraph shall be applied to each tract included in an OCS lease sale.

(1) *Cash bonus bid with a fixed royalty rate of not less than 12½ per centum in amount or value of the production saved, removed or sold and an annual rental.* (i) The royalty rate to be paid by the highest responsible qualified bidder shall be a percentage of the amount or value of the production saved, removed or sold. Such royalty rate shall not be less than 12½ per centum at the beginning of the lease period in amount or value of production and shall be specified in the notice of OCS lease sale published in the FEDERAL REGISTER.

(ii) The amount of cash bonus to be paid is determined by the qualified bidder submitting the bid. Any deferment and the schedule of payments shall be included in the notice of OCS lease sale published in the FEDERAL REGISTER.

(iii) The annual rental to be paid by the highest responsible qualified bidder and any amounts creditable against future royalties shall be specified in the notice of sale published in the FEDERAL REGISTER.

(2) *Royalty rate bid based on per centum in amount or value of the production saved, removed or sold, with a fixed cash bonus and an annual rental.* (i) The royalty rate to be paid is determined by the qualified bidder submitting the bid and shall be based on a percentage of the amount or value of the production saved, removed, or sold.

(ii) The cash bonus to be paid by the highest responsible qualified bidder shall be an amount specified in the notice of OCS lease sale published in the FEDERAL REGISTER.

(iii) Rental payment amounts must be as specified in paragraph (a)(1)(iii) of this section.

(3) *Cash bonus bid with diminishing or sliding royalty rate of not less than 12½ per centum at the beginning of the lease period in amount or value of the production saved, removed, or sold, and annual rental.* (i)(A) The royalty rate to be paid by the highest responsible qualified bidder shall be a percentage of the amount or value of the production saved, removed or sold. The royalty rate shall be calculated by utilizing either a sliding scale formula, which relates the royalty rate established thereby to the adjusted value of the oil and gas produced during the production period, or a schedule that establishes the royalty rate that will be applied to specified ranges of adjusted value of production. The description of the sliding scale formula or schedule shall include the relationship between adjusted value of production and royalty rate, and a stipulation of the lowest royalty rate and highest royalty rate. The sliding scale formula or schedule shall be included in the lease issued to the person who is the successful bidder as one of the lease terms and conditions.

(B) The royalty rate shall not be less than 12½ per centum at the beginning of the lease period in amount or value of the production saved, removed or sold and shall be specified in the notice of OCS lease sale published in the FEDERAL REGISTER.

(C) *Royalty payment calculation.* (*1*) The royalty rate utilized in the calculation of royalty payments is based on an adjusted value of production, and is established through application of a sliding scale formula or a schedule to the adjusted value of production.

(*2*) The adjusted value of production shall be determined by applying an inflation factor to the actual value of production.

(*3*) The established royalty rate is applied to the actual value of production, which results in the determination of amount in dollars to be paid to the United States by the person awarded the lease or the amount of royalty oil and gas to be taken in kind by the United States.

(*4*) The production period, inflation factor and procedures for making the inflation adjustment and for determining the value or amount of production shall be stated in the notice of sale published in the FEDERAL REGISTER.

(ii) The amount of cash bonus to be paid is determined by the qualified bidder submitting the bid. Any deferment and the schedule of payments shall be included in the notice of OCS lease sale published in the FEDERAL REGISTER.

(iii) Rental payment amounts must be as specified in paragraph (a)(1)(iii) of this section.

(4) *Cash bonus bid with a fixed share of the net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area and a fixed annual rental*—(i) *Net profit share payment calculation.* The amount of the net profit share payment to the United States by the person awarded the lease shall be determined for each month by multiplying the net profit share base times the net profit share rate, in accordance with § 220.022.

(A) *Net profit share base.* (1) The net profit share base shall be calculated in accordance with § 220.021.

(2) The capital recovery factor needed to calculate the allowance for capital recovery, in accordance with § 220.020, shall be specified in the notice of OCS lease sale published in the FEDERAL REGISTER and may vary from tract to tract.

(B) *Net profit share rate.* The net profit share rate, which determines the fixed share of the net profits owed to the United States, shall be a percentage that is specified in the notice of OCS lease sale published in the FEDERAL REGISTER. Such net profit share rate shall not be less than 30 percent of the net profit share base and may vary from tract to tract.

(ii) The amount of cash bonus to be paid is determined by the person submitting the bid. Any deferment and the schedule of payments shall be included in the notice of OCS lease sale published in the FEDERAL REGISTER.

(iii) The annual rental to be paid by the person awarded the lease shall be the amount specified in the notice of OCS lease sale published in the FEDERAL REGISTER.

(5) *Cash bonus bid with a variable royalty rate or rates during one or more production periods in amount or value of the production saved, removed or sold, and an annual rental.* MMS may suspend or defer the royalty due for a period, volume, or value of production. Such suspensions or deferrals may vary based on changes in the prices of oil and/or gas as specified in the notice of sale published in the FEDERAL REGISTER.

(i) The royalty rate due on production may be less than 12½ per centum, but greater than zero per centum, at any designated time during the lease period based on the amount or value of production saved, removed, or sold. Royalty may be suspended or deferred for a period, volume, or value of production. The applicable royalty rate(s) and suspension or deferral magnitudes or formulas shall be specified in the notice of sale published in the FEDERAL REGISTER.

(ii) The amount and the procedure for payment of a cash bonus must be as specified in paragraph (a)(1)(ii) of this section.

(iii) Rental payment amounts must be as specified in paragraph (a)(1)(iii) of this section.

(6) *Cash bonus bid with a royalty rate or rates based on formula(s) or schedule(s) during one or more production periods in amount or value of the production saved, removed or sold, and an annual rental.* Royalty may be suspended or deferred for a period, volume, or value of production. Such a suspension or deferral may vary based on changes in the prices of oil and/or gas as specified in the notice of sale published in the FEDERAL REGISTER.

(i) The royalty due on production shall be specified as a percentage of the amount or value of the production saved, removed, or sold. When the value of production is used, by unit or in aggregate, the royalty rate will be determined based on prices for oil and/or gas as specified in the notice of sale published in the FEDERAL REGISTER.

(A) The lessee must calculate the royalty due using the formula or schedule specified in the lease based on the adjusted amount or indexed value of the oil and gas produced. The formula or schedule will describe the relationship between the adjusted or actual amount of production, indexed value, or indexed price, and the royalty rate. It will stipulate the lowest and highest royalty rates.

(B) The royalty rate formula or schedule and the suspension or deferral magnitudes or formulas shall be specified in the notice of sale published in the FEDERAL REGISTER.

(C) *Royalty payment calculation.*

(*1*) The royalty rate used to calculate the royalty due on production is based on an adjusted or actual amount of production, indexed value, or indexed price and is set through application of the specified formula or schedule to the designated production period.

(*2*) The lessee will determine the adjusted amount or indexed value, or indexed price by applying an index or inflation factor specified in the lease to the actual amount or value of production, or to the adjusted price.

(*3*) The lessee must apply the royalty rate to the actual value of production. The result is the amount in dollars that the lessee must pay to the United States, or the amount of royalty oil and/or gas that the United States will take in kind.

(*4*) The production period, inflation factor and procedures for making the inflation adjustment and for determining the value or amount of production shall be stated in the notice of sale published in the FEDERAL REGISTER.

(ii) The amount and the procedure for payment of a cash bonus must be as specified in paragraph (a)(1)(ii) of this section.

(iii) Rental payment amounts must be as specified in paragraph (a)(1)(iii) of this section.

(7) *Cash bonus bid with a royalty rate of not less than 12½ per centum fixed in amount or value of the production saved, removed or sold, and with suspension of royalties for a period, volume, or value of production, and an annual rental.* Royalty may be suspended for a period, volume, or value of production. Such a suspension may vary based on changes in the prices of oil and/or gas as specified in the notice of sale published in the FEDERAL REGISTER.

(i) Except for a period of suspension, the royalty rate due on production will be specified as a percentage of the amount or value of the production saved, removed, or sold. The applicable royalty rate shall be specified in the notice of the lease sale published in the FEDERAL REGISTER. When the royalty rate is applied to the value of production, by unit or in aggregate, the royalty rate will be determined based on the prices for oil and/or gas as specified in the notice of sale published in the FEDERAL REGISTER.

(A) The lessee must calculate the royalty due using the formula or schedule specified in the lease agreement based on the adjusted amount or indexed value of the oil and gas produced. The formula or schedule will describe the relationship between adjusted or actual amount of production, indexed value, or indexed price, and the royalty rate. It will stipulate the lowest and highest royalty rates that may apply.

(B) The formula or schedule for royalty due on production and the suspension magnitudes or formulas shall be specified in the notice of sale published in the FEDERAL REGISTER.

(ii) The amount and the procedure for payment of a cash bonus must be as specified in paragraph (a)(1)(ii) of this section.

(iii) Rental payment amounts must be as specified in paragraph (a)(1)(iii) of this section.

(b) The value basis for determining the actual value of production and for purposes of computing royalty in accordance with the bidding systems established by paragraph (a) of this section shall be as described in 30 CFR 206.102, 206.152, and 206.153; *Provided, however,* That with respect to oil, the first sale of which is controlled under 10 CFR part 212, the value shall not exceed the lawful first sale price of such oil; and *Provided further,* That with respect to gas, the value shall not exceed the sale price established by the Federal Energy Regulatory Commission.

(c) MMS may, by rule, add to or modify the bidding systems listed in paragraph (a) of this section, in accordance with the procedural requirements of OCSLA, 43 U.S.C. 1331 *et seq.*, as amended by Pub. L. 95–372, 92 Stat. 629.

(d) This paragraph explains how the royalty-suspension volumes in section 304 of the Outer Continental Shelf Deep Water Royalty Relief Act, Public Law 104–58, apply to *eligible* leases. For purposes of this paragraph, any volumes of production that are not royalty bearing under the lease or the regulations in this chapter do not count against royalty-suspension volumes. Also, for the purposes of this paragraph, production includes volumes allocated to a lease under an approved unit agreement.

(1) Your *eligible* lease may receive a royalty-suspension volume only if your lease is in a field where no current lease produced oil or gas (other than test production) before November 28, 1995. Paragraph (d) of this section applies only to *eligible* leases in fields that meet this condition.

(2) We will assign your lease to an existing field or designate a new field and will notify you and other affected lessees of that assignment. Within 15 days of that notification, you or any of the other affected lessees may file a written request with the Director, MMS, for reconsideration accompanied by a statement of reasons. The Director will respond in writing either affirming or reversing the assignment decision. The Director's decision is final for the Department and is not subject to appeal to the Interior Board of Land Appeals under 30 CFR part 290 and 43 CFR part 4.

(3) The Final Notice of Sale will specify the water depth for each *eligible* lease. Our determination of water depth for each lease is final once we issue the lease. The Notice also will specify the royalty-suspension volume applicable to each water depth. The

minimum royalty-suspension volumes for fields are:

(i) 17.5 million barrels of oil equivalent (MMBOE) in 200 to 400 meters of water;

(ii) 52.5 MMBOE in 400 to 800 meters of water; and

(iii) 87.5 MMBOE in more than 800 meters of water.

(4) When production (other than test production) first occurs from any of the *eligible* leases in a field, we will determine what royalty-suspension volume applies to the *eligible* lease(s) in that field. The determination is based on the royalty-suspension volumes specified in paragraph (d)(3) of this section.

(5) If a new field consists of *eligible* leases in different water depth categories, the royalty-suspension volume associated with the deepest *eligible* lease applies.

(6) If your *eligible* lease is the only *eligible* lease in a field, you do not owe royalty on the production from your lease up to the applicable royalty-suspension volume.

(7) If a field consists of more than one *eligible* lease, payment of royalties on the *eligible* leases' initial production is suspended until their cumulative production equals the field's established royalty-suspension volume. The royalty-suspension volume for each *eligible* lease is equal to each lease's actual production (or production allocated under an approved unit agreement) until the field's established royalty-suspension volume is reached.

(8) If an *eligible* lease is added to a field that has an established royalty-suspension volume as the result of an approved application for royalty relief submitted under 30 CFR part 203 or as the result of one or more *eligible* leases having been assigned previously to the field, the field's royalty-suspension volume will not change even if the added lease is in deeper water. If a royalty-suspension volume has been granted under 30 CFR part 203 that is larger than the minimum specified for that water depth, the added *eligible* lease may share in the larger suspension volume. The lease may receive a royalty-suspension volume only to the extent of its production before the cumulative production from all leases in the field entitled to share in the suspension volume equals the field's previously established royalty-suspension volume.

(9) If a pre-Act lease(s) receives a royalty-suspension volume under 30 CFR part 203 for a field that already has a royalty-suspension volume due to *eligible* leases, then the *eligible* and pre-Act leases will share a single royalty-suspension volume. (Pre-Act leases are OCS leases issued as a result of a sale held before November 28, 1995; in a water depth of at least 200 meters; and in the Gulf of Mexico west of 87 degrees, 30 minutes West longitude. See 30 CFR part 203). The field's royalty-suspension volume will be the larger of the volume for the *eligible* leases or the volume MMS grants in response to the pre-Act leases' application. The suspension volume for each lease will be its actual production from the field until cumulative production from all leases in the field equals the suspension volume.

(10) A royalty-suspension volume will continue through the end of the month in which cumulative production from leases in a field entitled to share the royalty-suspension volume reaches that volume.

(11) If we reassign a well on an *eligible* lease to another field, the past production from that well will count toward the royalty-suspension volume, if any, specified for the field to which it is reassigned. The past production will not count toward the royalty suspension volume, if any, for the field from which it was reassigned.

(12) You may receive a royalty-suspension volume only if your entire lease is west of 87 degrees, 30 minutes West longitude. A field that lies on both sides of this meridian will receive a royalty-suspension volume only for those *eligible* leases lying entirely west of the meridian.

(13) Your lease may obtain more than one royalty-suspension volume. If a new field is discovered on your *eligible* lease that already benefits from the royalty-suspension volume for another field, production from that new field receives a separate royalty suspension.

(14) You must measure natural gas production subject to the royalty-suspension volume as follows: 5.62 thousand cubic feet of natural gas, measured in accordance with 30 CFR part 250, subpart L, equals one barrel of oil equivalent.

[45 FR 9539, Feb. 12, 1980, as amended at 45 FR 36800, May 30, 1980; 46 FR 29689, June 2, 1981; 46 FR 35625, July 9, 1981. Redesignated at 48 FR 1182, Jan. 11, 1983, and amended at 48 FR 24874, June 3, 1983; 56 FR 23648, May 23, 1991; 61 FR 3804, Feb. 2, 1996; 61 FR 12027, Mar. 25, 1996; 63 FR 2629, Jan. 16, 1998]

§ 260.111 Criteria for selection of bidding systems and bidding system components.

(a) In analyzing the application of one of the bidding systems listed in § 260.110(a) to tracts selected for any OCS lease sale, MMS may, in its discretion, consider the following purposes and policies, recognizing that each of the purposes and policies may not be specifically applicable to the selection process for a particular bidding system and tract or may present a conflict that will have to be resolved in the process of bidding system selection, and that the order of listing does not denote a ranking:

(1) Providing fair return to the Federal Government;

(2) Increasing competition;

(3) Assuring competent and safe operations;

(4) Avoiding undue speculation;

(5) Avoiding unnecessary delays in exploration, development, and production;

(6) Discovering and recovering oil and gas;

(7) Developing new oil and gas resources in an efficient and timely manner;

(8) Limiting administrative burdens on Government and industry; and

(9) Providing an opportunity to experiment with various bidding systems to enable the identification of those that are the most appropriate for the satisfaction of the objectives of the United States in OCS lease sales.

(b) In performing the analysis referred to in paragraph (a), MMS may, in its discretion, take into account the following in relation to their impact upon the purposes and policies enumerated in paragraph (a) of this section.

(c) The bidding systems listed in § 260.110(a) (2) and (3) shall be applied to not less than 20 per centum and not more than 60 per centum of the total area offered for leasing each year during the five-year period commencing on September 18, 1978, unless DOI determines that the maximum and minimum per centum limitations set forth in this section are inconsistent with the purposes and policies of the OCSLA.

[45 FR 9539, Feb. 12, 1980. Redesignated and amended at 48 FR 1182, Jan. 11, 1983]

Subpart C [Reserved]

Subpart D—Joint Bidding

SOURCE: 45 FR 62031, Sept. 18, 1980, unless otherwise noted. Redesignated at 48 FR 1182, Jan. 11, 1983.

§ 260.301 Purpose.

The purpose of the regulations in this subpart D is to encourage participation in OCS oil and gas lease sales by limiting the requirement for filing Statements of Production to certain joint bidders.

§ 260.302 Definitions.

For purposes of this subpart D, all the terms used shall be defined as in 30 CFR 256.38.

§ 260.303 Joint bidding requirements.

(a) Any person who submits a joint bid for any OCS oil and gas lease during a six-month bidding period and who was chargeable for the prior production period with an average daily production in excess of 1.6 million barrels of crude oil, natural gas equivalents, and liquefied petroleum products, shall have filed a Statement of Production with the Director, MMS, in accordance with the requirements of 30 CFR 256.38. The Statement of Production shall state that the person filing the Statement is chargeable for the prior production period with an average daily production in excess of 1.6 million barrels of crude oil, natural gas equivalents, and liquefied petroleum products.

(b) No person chargeable for the prior production period with an average